

MAY 03 2006

BEFORE THE FEDERAL ELECTION COMMISSION

SECRETARIAT

In the Matter of

2005 MAY -3 P 4:35

Friends for a Democratic White House
and Jonathon Mosier, in his
official capacity as Treasurer

SENSITIVE

Swing States for a Conservative White House
and Marsha McCoy-Pfister, in
her official capacity as Treasurer

MUR 5155

Jerome Dewald

TRKC, Inc.

GENERAL COUNSEL'S REPORT # 3

I. ACTIONS RECOMMENDED

Take no further action other than to send letters of admonishment to Friends for a Democratic White House and Jonathon Mosier in his official capacity as Treasurer, Swing States for a Conservative White House and Marsha McCoy-Pfister in her official capacity as Treasurer, and Jerome Dewald; take no further action as to TRKC, Inc.; and close the file as to all Respondents.

II. BACKGROUND

Based on evidence that two newly formed federal political committees controlled by the same person, but with nominally opposing political ideologies, sent solicitations to fictitious donor names that were permissively "salted" into FEC disclosure reports, the Commission found reason to believe that Friends for a Democratic White House PAC, Inc. and its treasurer ("Friends"); Swing States for a Conservative White House PAC, Inc. and its treasurer ("Swing States"); and Jerome Dewald, who is "Chief of Staff" for both Friends and Swing States

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1 (collectively referred to as "the Dewald Respondents") violated 2 U.S.C. § 438(a)(4) by using
2 information derived from Commission disclosure reports to solicit contributions.¹ See First
3 General Counsel's Report in MUR 5155.² The treasurers of Friends and Swing States submitted
4 sworn statements indicating that they served as functionaries who lacked knowledge as to how
5 Mr. Dewald selected the potential donors to which the two committees sent solicitations.

6 The investigation of this matter has been complicated and delayed by the Michigan State
7 Attorney General's parallel criminal prosecution, as well as the subsequent conviction and
8 appeal of Mr. Dewald for various state crimes arising from the same facts as in this Matter. In
9 June 2003, Mr. Dewald was convicted of defrauding donors and the conversion of political
10 committee mailing lists. The Michigan Court of Appeals affirmed Mr. Dewald's criminal
11 conviction in May 2005. (See Attachment A). A further appeal to Michigan's Supreme Court
12 remains pending. Mr. Dewald served a 17-month prison sentence for his conduct and currently
13 is on parole through February 2007. (See Attachment B). Mr. Dewald also is subject to a state
14 court order requiring him to pay several hundred thousand dollars in restitution. (See
15 Attachment C). In partial satisfaction of this order, the State of Michigan seized the assets held
16 by Mr. Dewald, PAC Services, Swing States and Friends that can be traced to the illegal activity.

17 Because Mr. Dewald chose not to testify at his original criminal trial, and sought to
18 preserve his privilege against self-incrimination for a possible re-trial following his appeal, he
19 has continued to assert his Fifth Amendment privilege. This is the most current information

¹ Mr. Dewald also operated a business entity named PAC Services Inc. that acted as a vendor to Friends and Swing States. PAC Services Inc., which is not a respondent in this matter, appears to be dormant and without assets.

² Lynn Sammartino was the Treasurer at the time the Commission made its findings. Jonathon Mosier became Friends' treasurer on January 21, 2003.

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1 from the Michigan Attorney General's Office as of April 28, 2006. Counsel has confirmed that
2 Mr. Dewald will continue to assert his Fifth Amendment privilege while this appeal is pending.

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8 Given that the State of Michigan has seized the remaining assets of Friends and Swing
9 States, that neither Friends nor Swing States has engaged in any significant activity since
10 Mr. Dewald's criminal conviction, that Mr. Dewald has served a prison sentence for his conduct
11 and is subject to a state court order requiring him to pay several hundred thousand dollars in
12 restitution, and that the state appellate court decision makes it unlikely that Mr. Dewald's
13 criminal conviction or the connected remedies will be overturned, this Office has concluded that
14 the proper ordering of the Commission's priorities and use of its resources would be best served
15 by taking no further action other than to send letters of admonishment to Friends for a
16 Democratic White House and Jonathon Mosier in his official capacity as Treasurer, Swing States
17 for a Conservative White House and Marsha McCoy-Pfister in her official capacity as Treasurer,
18 and Jerome Dewald.

19 The Commission also found reason to believe that TRKC, Inc., whose website,
20 <http://www.tray.com>, was cited by the Dewald Respondents as an alternative source for the
21 names to which it sent solicitations, violated 2 U.S.C. § 438 in connection with the possible sale
22 of information from FEC disclosure reports. Unlike the Dewald Respondents, TRKC, Inc.
23 provided a substantive response to the Commission's reason to believe findings. This Office

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1 deferred making any additional recommendations as to TRKC, Inc. in the hope of obtaining
2 additional corroborating information in discovery from Mr. Dewald. At this point, however,
3 given information suggesting that TRKC, Inc.'s activities do not constitute a violation of
4 2 U.S.C. § 438, it would be appropriate for the Commission to take no further action as to
5 TRKC, Inc. and close the file as to all Respondents in this matter.

6 **III. THE DEWALD RESPONDENTS**

7 **A. The Political Committees**

8 Jerome Dewald formed Friends and Swing States and arranged for them to register as
9 nonconnected federal political committees in the weeks just prior to the 2000 presidential
10 election. Friends sent out solicitations suggesting that it would support Al Gore's 2000
11 presidential campaign and other unnamed Democratic candidates. *See* First General Counsel's
12 Report dated May 21, 2002. Similarly, Swing States sent out solicitations suggesting that,
13 among other things, it would support George W. Bush's presidential campaign and other
14 unnamed Republican candidates. *Id.* As detailed below, the two committees eventually received
15 over \$700,000 in contributions and either made, or in some instances, attempted to make,
16 approximately \$125,000 in contributions to various national and state Democratic and
17 Republican party committees. The two committees also made salary payments to Mr. Dewald
18 (PAC Payroll Services) totaling \$75,312 and made payments to PAC Services, a business entity
19 controlled by Mr. Dewald, totaling \$214,135.

20 Friends registered with the Commission as of November 6, 2000. During 2000, Friends
21 received \$260,565 in contributions. During 2001-2002, Friends received \$4,050 in
22 contributions. During 2003-2004, Friends received no contributions. Between October 2000
23 and November 2005, Friends made \$35,000 in contributions to various national and state

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1 Democratic Party committees.³ During that same period, Friends made salary payments to
2 Mr. Dewald totaling \$33,885 and paid Mr. Dewald's company, PAC Services, \$68,362 for
3 consulting and fundraising services. Pursuant to Mr. Dewald's indictment, which is discussed
4 below, the State of Michigan obtained an order to seize Friends' assets. Following Mr. Dewald's
5 conviction, Friends disbursed funds totaling \$32,749 to the State of Michigan. Friends currently
6 lists \$121.67 cash-on-hand as of its 2006 April Quarterly Report, its most recent filing.

7 Swing States for a Conservative White House ("Swing States") registered with the
8 Commission on October 16, 2000. During 2000, Swing States received \$447,602 in
9 contributions. During 2001-2002, Swing States received \$77,775 in contributions. During 2003-
10 2004, Swing States received \$18,915 in contributions. Between October 2000 and November
11 2005, Swing States made \$90,000 in contributions to various national and state Republican Party
12 committees.⁴ During that same period, Swing States made salary payments to Mr. Dewald
13 totaling \$41,427 and paid Mr. Dewald's company, PAC Services, \$145,773 for consulting and
14 fundraising services. Pursuant to Mr. Dewald's indictment, which is discussed below, the State
15 of Michigan obtained an order to seize Swing States' assets. Following Mr. Dewald's
16 conviction, Swing States disbursed funds totaling \$134,449 to the State of Michigan. Swing
17 States currently lists \$542.81 cash-on-hand as of its 2006 April Quarterly Report, its most recent
18 filing.

³ Between October 28, 2000 and November 2, 2000, Friends contributed \$20,000 to the Democratic National Committee; this amount was refunded in full on April 1, 2002.

⁴ On November 4, 2000, Swing States contributed \$5,000 to the Republican Party of Pennsylvania and \$5,000 to the Republican Party of West Virginia. These amounts were refunded in full on January 19, 2001.

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1 B. Jerome Dewald

2 In June 2003, Jerome Dewald was convicted on five felony counts and one misdemeanor
3 count for false pretenses, fraud, and larceny by conversion stemming from the same activity at
4 issue in this MUR. In September 2003, Dewald was sentenced to 30-120 months and was
5 imprisoned. Importantly, Dewald did not testify at trial. Due to a miscalculation, Dewald was
6 resentenced on October 15, 2003 to 23-120 months, and fined \$708,187.50 as restitution less
7 money seized of \$172,558.99. Mr. Dewald served 17 months of his prison term, and was
8 released on parole to a halfway house in February 2005. The terms of Dewald's parole, which
9 will continue until February 2007, prohibit him, *inter alia*, from owning a computer or device
10 capable of connecting to the Internet; having a checking account, charge account or credit card;
11 working with direct control or access to money, or being self-employed without his parole
12 officer's consent. See Attachment B at 3. The terms of his parole, including a prohibition on
13 computer and Internet access and certain financial restrictions, appear to have prevented him
14 from engaging in similar conduct since his release from jail. See Attachment B at 3.

15 Mr. Dewald appealed his state conviction and, although the intermediate appeals court
16 upheld the conviction in May 2005, Dewald has petitioned for leave to appeal to the Michigan
17 Supreme Court.

18 IV. TRKC, INC.

19 TRKC, Inc. operates an Internet site dedicated to the topic of political money.
20 The Political Money Line (Political MoneyLine)⁵ is the home page for several other Internet
21 websites, including <http://www.tray.com> and <http://www.fecinfo.com>. The webhost of the site

⁵ From the "What We Do" page found at <http://www.tray.com/cgi-win/indexhtml.exe?MBF=whatwedo>:
"PoliticalMoneyLine seeks to facilitate the general public access to information from government and non-
government sources on issues of vital relevance to the people. It also seeks to encourage and assist the
dissemination of government information and documents."

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1 where this information can be found states that it "routinely collects paper and electronic
2 information from numerous agencies, departments and offices in Washington, D.C. These
3 offices include the Federal Election Commission" ⁶

4 TRKC, Inc. also offers various subscription services. TRKC, Inc. has developed and
5 makes available online several Internet products for tracking political money in national politics.
6 For example, TRKC, Inc.'s FECInfoPro provides password-protected access to highly detailed
7 reports, analysis, and information on virtually every major area of American political money,
8 including information and specialized queries on lobbying, soft money, PAC money, and
9 committees of Congress. An Executive Summary for each PAC also provides cross-links to soft
10 money and lobby figures. TRKC, Inc. offers PACtracker for a fee, which provides password-
11 protected access to reports that track the PAC contributions of up to five groups or coalitions of
12 federal PACs (each with an unlimited number of PACs). ⁷

13 The Commission's finding as to TRKC, Inc. was based on information suggesting it
14 made commercial use of FEC disclosure reports by having various leasing arrangements and
15 subscriptions services by which the general public could obtain, among other things, lists of
16 donors to federal political committees for possible solicitation purposes. ⁸ At the time of the
17 reason to believe finding, TRKC, Inc. provided a disclaimer about the potential misuse of

⁶ TRKC, Inc. also contracts with the Secretary of the U.S. Senate for the development and implementation of their Electronic Filing System for Lobby Registration and Reporting and consults on a regular basis with state and federal agencies seeking to move into the electronic filing age, as well as providing timely and dynamic disclosures of government documents.

⁷ Summary figures and detailed analysis of each coalition's contributions can be arranged by committees of Congress, party affiliation and by individual Member names. The subscriber is able to select the PACs in the coalitions, and the contributions are updated automatically at the beginning of each month.

⁸ It appears that the information on the Political MoneyLine website run by TRKC, Inc. which was apparently used by Friends in its direct mailings, was copied by TRKC, Inc. from the Gore Committee's reports filed with the Commission.

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1 information garnered from the FEC to those attempting to download information from their
2 website, but not to those who simply viewed or printed the information from the website.

3 "The § 438(a)(4) prohibition is . . . violated by a use of FEC data which could subject the
4 'public-spirited' citizens who contribute to political campaigns to 'all kinds of solicitations'."
5 *Contrast Federal Election Comm'n v. Political Contributions Data, Inc.*, 943 F.2d 190, 197 (2d
6 Cir. 1991) (allowing the sale of compilations of mandatory contributor reports after finding little
7 risk that the contributor lists will result in solicitation or harassment of contributors because of
8 the absence of mailing addresses, as well as the caveat on each page against solicitation and
9 commercial use). Title 11 of the Code of Federal Regulations prohibits use of data from reports
10 "for any commercial purpose." 11 C.F.R. § 104.15(a). The regulations articulate an exception
11 for the use of FEC data in "newspapers, magazines, books or other similar communications . . .
12 as long as the principal purpose of such communications is not to communicate any contributor
13 information listed on such reports for the purpose of soliciting contributions or for other
14 commercial purposes." 11 C.F.R. § 104.15(c).

15 In *Federal Election Comm'n v. Political Contributions Data, Inc.*, 943 F.2d 190 (2d
16 1991) ("PCD"), the Second Circuit found that Political Contributions Data's ("PCD") use of
17 FEC data permissible under § 438(a)(4). PCD had compiled FEC data for the intended and
18 stated purpose of conveying information to the public, specifically how financial contributions
19 support the current political structure by providing an advantage to incumbents over challengers.
20 Therefore, the court likened PCD to a traditional purveyor of news. The *PCD* court also found
21 that there was very little risk that PCD's information would be used for soliciting contributions
22 or for commercial use, and looked at the fact that only two of PCD's customers had even
23 considered using the lists for soliciting contributions and neither had actually done so.

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1 The most recent case on point is *FEC v. Legi-Tech, Inc.*, 967 F.Supp. 523 (D.D.C. 1997).
2 In that case, the United States District Court for the District of Columbia granted the
3 Commission's motion for summary judgment finding that the sale of subscriptions to the
4 Campaign Contribution Tracking System violated the commercial use provision of 438(a)(4).
5 Legi-Tech sold subscribers lists of donors from FEC data specifically so that Legi-Tech's
6 customers could solicit those donors. Thus, Legi-Tech clearly violated both the intent and the
7 text of the Act. In *Legi-Tech*, the court found that Legi-Tech's database provided information
8 ("a computerized list of campaign contribution information copied from FEC files") that would
9 lead to the potential solicitation of contributions and, therefore, the court found Legi-Tech in
10 violation of the commercial purposes clause of the Act.

11 In the recent AO 2004-24, National Geographical & Political Software ("NGP")
12 requested an advisory opinion from the Commission regarding a potential upgrade to their
13 campaign software. NGP proposed to "offer our clients the ability to automatically see the
14 contributions that their donors have made to other candidates, PACs and party organizations."
15 AO Request at 1. This feature would allow campaigns to ask their own donors for the maximum
16 amount of money that the donor had given to other campaigns in the past. The final version of
17 the AO, as voted on by the Commission on August 12, 2004, found that NGP's proposed use of
18 FEC data violated the Act. Specifically, the AO stated that "[y]our proposed sale or inclusion of
19 information about contributors (other than information about political committees that are
20 contributors) obtained from the FEC's public records in NGP Campaign Office would be
21 prohibited under the Act's restriction on the sale or use of such contributor information." AO
22 2004-24 at 2. The AO went on to note that the purpose of the law prohibiting commercial use of
23 FEC data is to protect the privacy of publicly minded citizens. Responding directly to the

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1 language of the AO request, the Commission found that because NGP intended to obtain
2 information from the FEC's online public records and include the information in a software
3 upgrade, such a use would be commercial, and thus barred both by the pertinent statute and
4 regulation. AO 2004-24 at 3.

5 TRKC, Inc.'s response to the reason to believe findings, as supplemented by discussions
6 with its founders and managers, Tony Raymond and Kent Cooper, indicates that TRKC, Inc.
7 does not create mailing lists. Further TRKC Inc. does not sell a product or service that
8 aggregates an individual donor's contributions. Instead, among other things, they provide a free
9 "donor name look-up" capability to anyone perusing their website. The subscription services,
10 which began in March 2000, contain no additional information with respect to individual donors
11 that is not also readily available on the non-subscription side of the website. Primarily, the
12 subscription service allows users to organize and sort large amounts of data more efficiently. In
13 other words, subscribing to one or more of TRKC, Inc.'s services would not garner additional
14 information which might be used by someone attempting to solicit contributions from potential
15 donors. Further, TRKC Inc. has confirmed that neither Jerome Dewald nor either of his
16 organizations had a subscription to any of its services. Therefore, Mr. Dewald compiled
17 information from TRKC, Inc. in the same way the general public would have.

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TRKC, Inc. is more of an information-gathering service and, therefore, more akin to Political Contributions Data, Inc. with respect to the information it provides and maintains. Similarly, TRKC, Inc. is an Internet news and tracking service that assists media organizations, corporations, trade associations, individuals and non-profit groups with data collection, storing, transmission, linking, analysis and display of complex financial and political information.

It appears that Friends and Swing States attempted to circumvent the Act by relying on information on the Political MoneyLine website where, at the time of the violations, there was no disclaimer to those attempting to download information from their website that information gleaned from reports filed with the Commission could not be used to solicit contributions. However, there was no requirement that TRKC, Inc. provide such a disclaimer. In addition, any information Friends and Swing States gleaned from the Political MoneyLine website was

1 obtained without fee, obviating a potential violation by TRKC, Inc. for the use or sale of FEC
2 data for a commercial purpose. While the Commission's final language in AO 2004-24 found
3 that an entity, for-profit or otherwise, that sold FEC data in a software upgrade or as a separate
4 service would be in violation of the Act, upon further review of the evidence in this Matter and
5 interviews with the founders of TRKC, Inc., it does not appear that TRKC engaged in the sale or
6 use for a commercial purpose of information filed with the Commission. Therefore, this Office
7 recommends the Commission take no further action as to TRKC, Inc.

8 **V. CONCLUSION**

9 Although Mr. Dewald's testimony is both necessary and relevant to a complete factual
10 record, he has stated through counsel that he plans to assert his Fifth Amendment right against
11 self-incrimination at least until his current criminal appeal is resolved. Mr. Dewald has been
12 convicted of crimes stemming from activity that is the subject of this MUR and he has served a
13 prison sentence. Neither Friends nor Swing States is involved in a significant level of activity
14 and both have little cash-on-hand. It appears that the treasurers of the two PACs knew very
15 little, if anything, about Mr. Dewald's schemes to defraud potential contributors. It does not
16 appear that TRKC, Inc. made commercial use of information obtained from the Commission in
17 this case. Significant resources have already been spent on this case and the potential for further
18 noteworthy findings or receipt of civil penalty is doubtful. While this Matter could remain open
19 during the criminal appeal, this Office recognizes that there also is merit to taking no further

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1 action based on the proposition that the public interest was fully vindicated by the criminal
2 conviction of Mr. Dewald.⁹

3 **VI. RECOMMENDATIONS**

- 4 1. Take no further action and send a letter of admonishment to Jerome Dewald;
5 2. Take no further action and send a letter of admonishment to Swing States for a Conservative
6 White House and Marsha McCoy-Pfister in her official capacity as Treasurer;
7 3. Take no further action and send a letter of admonishment to Friends for a Democratic White
8 House and Jonathon Mosier in his official capacity as Treasurer;
9 4. Take no further action as to TRKC, Inc.;
10 5. Close the file.


11 Lawrence H. Norton
12 General Counsel
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15 Rhonda J. Vosdingh
16 Associate General Counsel
17

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Date: 5/3/06

BY: 

Mark Shonkwiler
Assistant General Counsel


April J. Sands
Attorney

18 **Attachments**

- 19 A. Per Curiam Opinion in the *People v. Jerome Dewald*
20 B. Michigan Department of Corrections Offender Profile
21 C. State of Michigan Order for Seizure and Forfeiture regarding Jerome Dewald

⁹ On March 7, 2006 the Commission voted to take no further action, close the file, and send letters of admonishment to Mr. Dewald and others in MUR 5385, a case in which Mr. Dewald was found to have knowingly and willfully violated 2 U.S.C. §§ 438(a)(4) and 441h(b) stemming from conduct similar to that at issue here.

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JEROME WESTFIELD DEWALD,

Defendant-Appellant.

UNPUBLISHED

May 12, 2005

No. 251804

Ingham Circuit Court

LC No. 02-001185-FH

Before: Cooper, P.J., and Jansen and Hoekstra, JJ.

PER CURIAM.

Defendant appeals by right his jury trial convictions of false pretenses, \$1,000 or more but less than \$20,000, MCL 750.218(4)(a); false pretenses less than \$200, MCL 750.218(2); two counts of common law fraud, MCL 750.280; and two counts of larceny by conversion, \$20,000 or more, MCL 750.362. Defendant was sentenced to consecutive terms of sixteen to sixty months' imprisonment for the false pretenses, \$1,000 to \$20,000, convictions; ninety days in jail for the false pretenses under \$200, convictions; and 23 to 120 months' imprisonment for the two convictions of common law fraud and the two larceny by conversion convictions. We affirm.

Defendant's convictions stem from his operation of two political action committees (PACs) during the 2000 election campaign and recount. Defendant was the chief of staff of both Friends for a Democratic White House (Friends) and Swing States for a GOP White House (Swing States). Defendant also incorporated PAC Services, with the purpose of providing services to the PACs defendant had formed. Defendant solicited contributions through mailings. A contention at trial was that defendant's mailing lists were stolen from the Federal Election Commission (FEC) disclosure statements of the 2000 Presidential campaigns of both Al Gore and George W. Bush. These statements list the contributors to each campaign and appear on the FEC website, along with a warning that the lists are for informational purposes only and may not be used for commercial or solicitation purposes.

Defendant's PACs collected around \$700,000 in contributions. Three victims of defendant's solicitation letters testified at trial. They all testified that the solicitation letters they received implied an affiliation with either the Bush or Gore campaigns. They also testified that they donated to the PAC which solicited them because the letter led them to believe their contributions would go to either the Bush or Gore campaign. They also testified they would not have given money to the PAC if they knew the money was not going to either the Bush or Gore campaign. Defendant's PACs did give money to Democratic and Republican causes, but checks

they attempted to give to the Republican National Committee and the Gore campaign were returned, i.e., those entities refused to accept the donations.

Defendant first argues that there was insufficient evidence to sustain his convictions. We disagree. The standard of review for sufficiency of the evidence claims in criminal cases is "whether the evidence, viewed in a light most favorable to the people would warrant a reasonable juror in finding" that all the elements of the crime were proven beyond a reasonable doubt. *People v Nowack*, 462 Mich 392, 399; 614 NW2d 78 (2000). A reviewing court should not interfere with the jury's role in determining credibility of witnesses and weighing the evidence. *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 748, amended on other grounds 441 Mich 1201 (1992). The prosecutor does not have to disprove the defendant's theory of innocence. *Nowack, supra* at 400. Rather, the prosecutor need only prove the elements of the case beyond a reasonable doubt. *Id.* Additionally, "[i]t is for the trier of fact, not the appellate court, to determine what inferences may be fairly drawn from the evidence and to determine the weight to be accorded those inferences." *People v Hardiman*, 466 Mich 417, 428; 646 NW2d 158 (2002).

In order to prove false pretenses, the prosecutor must show: (1) a false representation concerning an existing fact, (2) knowledge by the defendant that the representation is false, (3) use of the representation with an intent to deceive, and (4) detrimental reliance by the victim. *People v Reigle*, 223 Mich App 34, 37-38; 566 NW2d 21 (1997). We find that the prosecutor presented sufficient evidence on each element to sustain defendant's convictions for false pretenses. Defendant, through the solicitation letters, represented that he was affiliated with either the Bush or Gore campaigns and the language in his letters implied that he knew the individuals to be past donors to the campaign.¹ Defendant used the candidates' names in his solicitation letters. Defendant's later letters represented that he was affiliated with the recount effort of each campaign after the election. All of these representations were not true because defendant's PACs were not affiliated with either party or its recount effort. It was also undisputed that defendant knew these representations were false, because he knew he was not affiliated with either political party's candidate for President.

There was also evidence that defendant used the representations with an intent to deceive. A defendant's intent to deceive can be inferred from the evidence, *Reigle, supra* at 39, and minimal circumstantial evidence is sufficient to prove a defendant's intent. *People v Guthrie*, 262 Mich App 416, 419; 686 NW2d 767 (2004). There was evidence presented at the trial that defendant used the candidates' names in his solicitation letter, knowing that this use was illegal. Defendant informed an investigator that he learned how to operate a PAC by reading the FEC guide. In this guide, it clearly stated that it was not proper for a PAC to use a candidate's name in its solicitations. There was also testimony from the counsel for the Republican National Committee that he sent defendant a cease and desist letter, informing him of his illegal and

¹ Defendant is correct in arguing that false pretenses cannot be based on a future misrepresentation. *People v Cage*, 410 Mich 401, 404; 301 NW2d 819 (1981). However, defendant made misrepresentation about an existing fact; that he was affiliated with both the Bush and the Gore campaigns.

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misleading use of Bush's name in his solicitations. Evidence indicated that defendant mailed additional letters using Bush's name after this letter. The circumstantial evidence presented at trial supported the prosecutor's theory that defendant used misrepresentations that he was affiliated with each political party with an intent to deceive potential donors into giving to his PACs.

There was also detrimental reliance by the victims. Each victim testified that he or she donated money to one of defendant's PACs. The victims also testified that they believed that the money was going to the Bush or Gore campaign and that they relied on this in sending the donations. The victims also testified that they would not have sent in the donations if they knew the money was not going to go to the respective campaigns. In addition, a victim testified that she sent a \$200 donation for Friends and that her check was cashed. Another victim testified that he sent a check to Friends for \$1,000 because he received the letter in the mail that asked him to assist Gore in his election campaign. And, another victim testified that he wrote a check to Swing States for \$100 and that check was ultimately cashed.

For the above stated reasons, we find that there was sufficient evidence for the jury to find defendant guilty of false pretenses, \$1,000 or more but less than \$20,000, and false pretenses, less than \$200.

Defendant also argues that there was insufficient evidence to find him guilty of two counts of common law fraud because the Bush and Gore campaigns did not suffer any loss. We disagree. MCL 750.280 defines the crime as the commission "of any gross fraud or cheat at common law." Defendant's convictions for common law fraud were based on the losses suffered by the Bush and Gore campaigns as a result of defendant's solicitation of Bush and Gore donors. Testimony at trial showed that defendant collected over \$700,000 in donations using the campaign lists of Bush and Gore contributors. There was expert testimony at trial that the repeated use of these lists decreased their value, resulting in the campaigns suffering a loss. There was also testimony from the victims that they believed their donations were going to the Bush or Gore campaigns and that they would not have given to defendant's PACs if they knew the money was not going to either the Bush or Gore campaign. It can be inferred from this that the campaigns suffered losses because the victims wanted their donations to go to the campaigns, but instead the money went to where defendant saw fit. As such, we find that there was sufficient evidence to support defendant's convictions for common law fraud.

Defendant also argues that there was insufficient evidence to support his larceny by conversion convictions because there was insufficient evidence that defendant intended to defraud anyone. We disagree. An element of larceny by conversion is that the defendant must, at the time the property was converted, intend to defraud or cheat the owner out of the property. *People v Scott*, 72 Mich App 16, 19; 248 NW2d 693 (1977). There was evidence presented at the trial that supported the theory that defendant illegally used each campaign's FEC disclosure of contributors. Swing States' mailing list contained fictitious names used by the Bush campaign in its FEC disclosure and Friends' mailing list contained errors that matched errors made on the Gore campaign's FEC filings. The FEC guide and website both contained warnings that these lists were not to be used for solicitation purposes. By using the lists for solicitation purposes, defendant defrauded the parties by soliciting further contributions from past donors, while implying that his PACs were affiliated with the campaigns. This evidence of an intent to defraud was sufficient to support the jury verdict.

Defendant next argues that his convictions should be reversed because they are preempted by federal law. We disagree. Determination of whether state law is preempted by federal law is an issue of statutory construction and an issue of law that is reviewed de novo. *Westlake Transportation, Inc v Public Service Comm*, 255 Mich App 589, 595; 662 NW2d 784 (2003). Congress may preempt state law in three general circumstances: (1) when Congress expressly states its intent to preempt state law; (2) when state law regulates conduct in an area Congress intended to occupy exclusively; and (3) when the state law actually conflicts with the federal law. *Wayne Co Bd of Comm'rs v Wayne Co Airport Authority*, 253 Mich App 144, 197-198; 658 NW2d 804 (2002). There is a presumption against preemption and courts will only find state law preempted when the intent of Congress is clear and unequivocal. *Id.* at 198. When state law concerns a legitimate exercise of a state's police powers, a party claiming preemption must meet a heavy burden to establish a Supremacy Clause violation. *People v Truong (After Remand)*, 218 Mich App 325, 332; 553 NW2d 692 (1996). The courts must balance the federal interest against the state's traditional police powers interest in prosecuting crimes. *People v Hegedus*, 432 Mich 598, 618; 443 NW2d 127 (1989).

Congress states that provisions of the Federal Election Campaign Act (FECA) "supersede and preempt any provision of State law with respect to election to Federal office." 2 USC 453. However, federal courts have held that "courts have given section 453 a narrow preemptive effect in light of its legislative history." *Karl Rove & Co v Thornburgh*, 39 F3d 1273, 1280 (CA 5, 1994), quoting *Stern v General Electric Co*, 924 F2d 472, 475 n 3 (CA 2, 1991). Additionally, federal courts have held that Congress did not intend the criminal sanctions of the FECA to be a substitute for all other possible criminal sanctions. *United States v Trie*, 21 F Supp 2d 7, 19 (D DC, 1998) citing *United States v Hopkins*, 916 F2d 207, 218 (CA 5, 1990); see also *United States v Curran*, 20 F3d 560, 566 (CA 3, 1994); *United States v Oakar*, 924 F Supp 232, 245 (D DC, 1996), affirmed in part, reversed in part on other grounds, 324 US App DC 104; 111 F3d 146 (1997). Defendant was charged with and convicted of Michigan state law crimes. These crimes are not specifically preempted by 2 USC 453. Defendant does not cite to another portion of the statute that specifically preempts a state from pursuing criminal charges when the crimes are brought against a factual background that involves an election. There is also no conflict with state and federal law in this area. Defendant's convictions for the crimes at issue were not barred by the FECA. Thus, we reject defendant's federal preemption argument.

Defendant next argues that the trial court erred in precluding him from presenting an expert witness at trial. We disagree. This Court reviews a trial court's decision on the admissibility of evidence for an abuse of discretion. *People v Starr*, 457 Mich 490, 497; 577 NW2d 673 (1998). "An abuse of discretion is found only if an unprejudiced person, considering the facts on which the trial court acted, would say there was no justification or excuse for the ruling made." *People v Snider*, 239 Mich App 393, 419; 608 NW2d 502 (2000).

The witness² was to testify about a viewing and printing of information from a website, tray.com, which contains the FEC disclosures. The information on tray.com was in a different

² Defendant argues on appeal that the proposed testimony he offered at trial was expert testimony. However, there was no mention of the fact that this witness was an expert at the trial court level.

form and did not contain the cautionary language against using the information for a commercial purpose. However, the witness viewed the website and made printouts from the website in January or February of 2001, which was after defendant had mailed out the letters in October and November of 2000. Thus, the trial court reasonably determined that this witness' testimony was not relevant and did not abuse its discretion in excluding this evidence.

Defendant next argues that he was denied a fair trial when multiple witnesses testified to factual and legal conclusions. We disagree. Defendant did not preserve this issue before the trial court by objecting to the testimony on the basis that it involved legal or factual conclusions. *People v Bulmer*, 256 Mich App 33, 35; 662 NW2d 117 (2003) ("[A]n objection based on one ground at trial is insufficient to preserve an appellate attack based on a different ground."). Therefore, we review this issue for plain error affecting substantial rights. *People v Jones*, 468 Mich 345, 355; 662 NW2d 376 (2003).

A witness is not permitted to testify on questions of law because it is the trial judge's responsibility to find and interpret the law. *People v Lyons*, 93 Mich App 35, 45-46; 285 NW2d 788 (1979). One instance defendant cites to was a witness explaining why he drafted a letter to Swing States and what the letter stated. Another instance is a witness reading from the FEC guide that had already been admitted into evidence. Both of these instances do not contain improper testimony in the form of a legal conclusion. As to the factual conclusions defendant cites to, neither instance contained testimony from a witness on the ultimate issue in the case, defendant's guilt or innocence on the charges. However, even if this testimony did directly go to the ultimate issues, that would not make this testimony objectionable. MRE 704. Additionally, defendant was able to cross-examine each witness on the basis of their factual statements and the jury was free to accept or reject the witness' testimony. Therefore, we conclude that defendant has not established plain error as to this issue.

Defendant next argues that the restitution order by the trial court should be reversed. We disagree. We typically review a trial court's award of restitution for an abuse of discretion. *People v Newton*, 257 Mich App 61, 68; 665 NW2d 504 (2003). The trial court ordered defendant to pay restitution in the amount of \$708,187.50 (the amount the PACs took in) minus \$172,558.99 (the amount that the Attorney General's office seized before trial) or \$535,628.51. Defendant argues there was no evidence presented that the individuals who contributed to the PACs suffered any loss, and that of the money defendant collected, \$127,000 went to political causes while the remainder was either seized by the Attorney General or went to operating costs.

Defendant was found guilty of using the Bush campaign's and the Gore campaign's mailing lists to collect the contributions to his PACs. The people who gave money to defendant's PACs testified that they intended for the money to go to the Bush or Gore campaigns. Therefore, defendant collected money that would have likely gone to either the Bush or Gore campaign and the campaigns suffered the loss of donations. More importantly, the people who gave money to the PACs also suffered losses because defendant was found guilty of using misrepresentations to obtain the donations. The fact that defendant apparently ultimately donated some of the money he collected to other Democratic or Republican causes does not change the fact that defendant represented to the people who contributed to the PACs that the money was going to go to the Bush or Gore campaigns or their legal recount funds. None of the money ultimately went to these causes. Additionally, the fact that defendant evidently did not personally benefit to the extent of \$536,628.51 does not make that amount an invalid amount of

restitution. The amount of restitution should be the amount of loss attributable to defendant's illegal activity. *People v Lueh*, 253 Mich App 670, 692; 660 NW2d 322 (2002). Therefore, the trial court did not abuse its discretion in determining the amount of restitution.

Defendant also argues that he should be resentenced based on *Blakely v Washington*, 542 US __; 124 S Ct 2531, 2537; 159 L Ed 2d 403 (2004), and *Apprendi v New Jersey*, 530 US 466, 490; 120 S Ct 2348; 147 L Ed 2d 435 (2000). We disagree. The United States Supreme Court held that "[o]ther than the fact of a prior conviction, any fact that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury, and proved beyond a reasonable doubt." *Apprendi, supra* at 490. The Supreme Court recently reaffirmed this holding in *US v Booker*, __ US __; 125 S Ct 738, 756; 160 L Ed 2d 621 (2005) and *Blakely, supra* at 2536. However, in *Blakely*, the Court stated that the decision did not affect indeterminate sentencing schemes. *Blakely, supra*, 124 S Ct 2540.

Additionally, our Supreme Court in *People v Claypool*, 470 Mich 715, 730 n 14; 684 NW2d 278 (2004), stated that *Blakely* does not affect Michigan's sentencing scheme because:

Michigan, in contrast [to the sentencing scheme in *Blakely*], has an indeterminate sentencing system in which the defendant is given a sentence with a minimum and a maximum. The maximum is not determined by the trial judge but is set by law. MCL 769.8. . . . The trial judge sets the minimum but can never exceed the maximum (other than in the case of a habitual offender, which we need not consider because *Blakely* specifically excludes the fact of a previous conviction from its holding).

This Court has concluded that it is bound by this statement by our Supreme Court that *Blakely* does not affect Michigan's sentencing system. *People v Drohan*, 264 Mich App 77, 89 n 4; 689 NW2d 750 (2004). As such, we must conclude that defendant's Sixth Amendment right to a jury trial was not violated and *Blakely* does not require defendant to be resentenced.

Defendant also claims that he was entitled to a hearing on restitution. However, defendant's attorney never made a request for an evidentiary hearing on restitution in the trial court and defendant failed to provide any authority for his argument on this issue on appeal, therefore, we deem the issue to be waived. *Prince v MacDonald*, 237 Mich App 186, 197; 606 NW2d 834 (1999).

Defendant also argues that the Legislature did not intend for OV 9 to include victims who only suffered financial injury and that the trial court erred in determining that OV 9 should be scored at twenty-five points for defendant's larceny by conversion conviction. We disagree. This Court has previously held that OV 9 included victims of financial injury. *People v Knowles*, 256 Mich App 53, 62; 662 NW2d 824 (2003). Additionally, we find that the trial court did not err in scoring OV 9 at twenty-five points for the larceny by conversion conviction. Evidence presented at trial showed that over 600 people contributed to defendant's two PACs as a result of defendant utilizing the campaigns' FEC disclosure lists. We believe that each of these people is properly considered a victim of defendant's criminal conduct in this case. The trial court can consider all evidence presented at the trial when calculating the guidelines. *People v Ratkov (After Remand)*, 201 Mich App 123, 125; 505 NW2d 886 (1993). We conclude that the trial court correctly scored OV 9 at twenty-five points.

Defendant next argues that his convictions violate his First Amendment rights of free speech and association. We disagree. We review constitutional issues de novo. *People v Haynes*, 256 Mich App 341, 345; 664 NW2d 225 (2003). Both the state and federal constitutions recognize the fundamental rights of free speech and expression and provide great protection for speech in the political arena. *Treasurer of the Committee to Elect Gerald D. Lostracco v Fox*, 150 Mich App 617, 622-623; 389 NW2d 446 (1986). However, this protection is not absolute. *Id.* at 622. All of the charges defendant complains impinge on his First Amendment freedoms involve some sort of misrepresentation or fraud. This Court has held that even in the area of political speech, "[k]nowing misrepresentations are not constitutionally protected free speech." *Id.* at 623. Defendant's statements were not protected speech and therefore defendant's prosecution because of these statements did not run afoul of the First Amendment.

Defendant also argues that his right to freedom of association was violated by his convictions. Although the First Amendment includes a protected freedom of association, *Griswold v Connecticut*, 381 US 479, 482; 83 S Ct 1678; 14 L Ed 2d 510 (1965), defendant was not prosecuted for associating with a political party. Defendant was prosecuted for making false representations that his PACs were affiliated with the presidential campaigns in order to obtain contributions. Therefore, we conclude that defendant's convictions did not abridge his right to freely associate.

Defendant also argues that his convictions for common law fraud and larceny by conversion should be vacated because the statutes are unconstitutionally vague. Again, we disagree. Whether a statute is constitutional is a question of law that we review de novo. *People v Piper*, 223 Mich App 642, 645; 567 NW2d 483 (1997). Statutes are presumed to be constitutional and valid, and courts are to construe statutes as constitutional unless there is a clear showing of unconstitutionality. *People v Hubbard (After Remand)*, 217 Mich App 459, 483; 552 NW2d 493 (1996). In *People v Petrella*, 424 Mich 221, 253; 380 NW2d 11 (1985), our Supreme Court set forth the following test:

"A statute may be challenged for vagueness on the grounds that it

- is overbroad, impinging on First Amendment freedoms, or
- does not provide fair notice of the conduct proscribed, or
- is so indefinite that it confers unstructured and unlimited discretion on the trier of fact to determine whether an offense has been committed." [Quoting *Woll v Attorney General*, 409 Mich 500, 533; 207 NW2d 578 (1980).]

Defendant first argues that the statute on common law fraud is overbroad. As discussed earlier, although political speech and expression is at the core of First Amendment protection, *In re Chmura*, 461 Mich 517, 532; 608 NW2d 31 (2000), "the First Amendment does not shield fraud" and public deception is not protected speech. *Illinois ex rel Madigan v Telemarketing Associates, Inc.*, 538 US 600, 612; 123 S Ct 1829; 155 L Ed 2d 793 (2003). Any conviction for common law fraud involves a finding of a fraud or cheat, which would not be protected under the First Amendment. Therefore, the statute does not impinge on First Amendment freedoms and is not overbroad.

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Defendant argues that both the statute on common law fraud and larceny by conversion are vague and that an ordinary person must guess at their meanings. We disagree. "When presented with a vagueness challenge, [the court] examine[s] the entire text of the statute and give[s] the words of the statute their ordinary meaning." *People v Sands*, 261 Mich App 158, 161; 680 NW2d 500 (2004), quoting *People v Morey*, 230 Mich App 152, 163; 583 NW2d 907 (1998). Due process requires "that the law give sufficient warning that men may conduct themselves so as to avoid what is forbidden." *Rose v Locke*, 423 US 48, 50; 96 S Ct 243; 46 L Ed 2d 185 (1975).

Both the common law fraud statute and larceny by conversion statute provide sufficient warning of what is prohibited by the statute. Although the common law fraud statute does not define the term "gross fraud or cheat" the common meaning of these terms would encompass defendant's conduct in this case. Fraud is defined as "[a] knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment." Black's Law Dictionary, 7th ed. Cheat is defined as "to defraud, to practice deception." *Id.* "Gross" is defined as "flagrant or extreme." Random House Webster's College Dictionary (2001), p 580. Evidence presented at the trial showed that defendant used campaign lists from the Bush and Gore campaigns to solicit potential donors with letters implying an affiliation with the campaigns and candidates. Defendant solicited over \$700,000 using the campaign lists and misleading solicitation letters. We find that this clearly fits under a common definition of "gross fraud or cheat."

The larceny by conversion statute also clearly applied to defendant's conduct in this case. Defendant argues that a reasonable person would not have known that the FEC disclosure lists belonged to the candidates or campaigns and would have thought that the lists were in the public domain. However, a reasonable person would know that the lists came from the candidates or campaigns because the lists were disclosed to the FEC by the candidate or campaigns. Additionally, a reasonable person would know that the lists were not information in the public domain to be used however one saw fit because of the warning on the FEC website that the information may not be used for solicitation purposes. The evidence presented at trial showed that defendant did just that. Therefore, the larceny by conversion statute was not unconstitutionally vague as applied to defendant.

Defendant next argues that he was the victim of vindictive prosecution. We disagree. Vindictive prosecution occurs when a defendant is prosecuted for asserting a constitutional right. *People v Ryan*, 452 Mich 30, 35-36; 545 NW2d 612 (1996). Defendant argues that he was prosecuted for exercising his First Amendment rights of free speech and association. However, as discussed above, defendant was not engaged in constitutionally protected speech when he sent out his solicitation letters. Because his speech was not constitutionally protected, defendant's prosecution based on the solicitation letters could not have been in retaliation for the exercise of a constitutional right. Defendant's argument that he was vindictively prosecuted is without merit.

Defendant next argues that the order of restitution violated his protection against double jeopardy. We disagree. We review an unpreserved double jeopardy issue for plain error. *People v Williams*, 265 Mich App 68, 72; 692 NW2d 722 (2005). The Double Jeopardy Clause protects defendants from, among other things, multiple punishments for the same offense. *People v Nutt*, 469 Mich 565, 574; 677 NW2d 1 (2004). This protection "ensure[s] that the

defendant's total punishment will not exceed the scope of punishment provided by the Legislature." *People v Dillard*, 246 Mich App 163, 165; 631 NW2d 755 (2001). In this case, it is clear that the trial court's order of restitution was not in excess of the punishment intended by the Legislature. MCL 780.766(2) requires a court to order restitution "in addition to or in lieu of any other penalty authorized by law or in addition to any other penalty required by law." The trial court's order of restitution did not violate the Double Jeopardy Clause.

Defendant finally argues that he was denied a fair trial because the two larceny by conversion counts were not severed from the other counts. Defendant did not preserve this issue by raising it at the trial court level, and defendant fails to explain and provide authority for this argument on appeal. As such, we deem the issue to have been abandoned. *People v Harris*, 261 Mich App 44, 50; 680 NW2d 17 (2004).

Affirmed.

/s/ Jessica R. Cooper
/s/ Kathleen Jansen
/s/ Joel P. Hoekstra



Corrections



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BIOGRAPHICAL INFORMATION



JEROME WESTFIELD DEWALD

MDOC Number: **463078**SID Number: **0695655M**Name: **JEROME WESTFIELD DEWALD**Racial Identification: **White**Gender: **Male**Hair: **Black**Eyes: **Blue**Height: **5' 11"**Weight: **210 lbs.**Date of Birth: **01/17/1951 (55)**Image Date: **9/5/2003**

MDOC STATUS

Current Status: **Parolee**Assigned Location: **Ingham/Lansing/Par/REF**

Security Level:

Supervision Begin Date: **02/17/2005**Supervision Discharge Date: **02/17/2007**Date Paroled: **02/17/2005**

ALIASES

None

MARKS, SCARS & TATTOOS

Scar: Upper Left Leg

Scar: Upper Right Back: Surgical scar

Tattoo: Upper Left Arm: Cain top hat

PRISON SENTENCES

ACTIVE

Sentence 1

Offense: **Larceny By Conversion - \$20,000 or More**MCL#: **750.3622A**Court File#: **02-1105-PH-C00**Minimum Sentence: **1 Year, 1 Month to 1 yr**Maximum Sentence: **10 Yrs or 60 months**Date of Offense: **11/30/2000**

ATTACHMENT

B

Page 1 of 3

26044143695

County: Ingham
Conviction Type: Jury

Date of Sentence: 10/15/2003

Sentence 2

Offense: Larceny By Conversion - \$20,000 or More
MCL#: 750.3622A
Court File#: 021185-FH-C30
County: Ingham
Conviction Type: Jury

Minimum Sentence: 1 year 11 months 0 days
Maximum Sentence: 10 years 0 months
Date of Offense: 11/30/2000
Date of Sentence: 10/15/2003

Sentence 3

Offense: False Pretenses - \$1,000 or More But Less Than \$20,000
MCL#: 750.2184A
Court File#: 021185-FH-C30
County: Ingham
Conviction Type: Jury

Minimum Sentence: 1 year 4 months 0 days
Maximum Sentence: 5 years 0 months
Date of Offense: 01/01/2000
Date of Sentence: 10/15/2003

Sentence 4

Offense: Gross Frauds & Cheats at Common Law
MCL#: 750.280
Court File#: 021185-FH-C30
County: Ingham
Conviction Type: Jury

Minimum Sentence: 1 year 11 months 0 days
Maximum Sentence: 10 years 0 months
Date of Offense: 11/01/2000
Date of Sentence: 10/15/2003

Sentence 5

Offense: Gross Frauds & Cheats at Common Law
MCL#: 750.280
Court File#: 021185-FH-C30
County: Ingham
Conviction Type: Jury

Minimum Sentence: 1 year 11 months 0 days
Maximum Sentence: 10 years 0 months
Date of Offense: 11/01/2000
Date of Sentence: 10/15/2003

INACTIVE

None

PROBATION SENTENCES

ACTIVE

None

INACTIVE

None

SUPERVISION CONDITIONS

01 - Contact agent no later than first business day after release

1.12 - Not own computer or device capable of connecting to Internet

02 - Must not change residence

03 - Must not leave state

04 - Not engage in any behavior that constitutes a violation

4.12 - Must use Legal Name

4.16 - Obey all court orders

05 - Comply with alcohol and drug testing ordered by field agent

06 - Not associate with anyone you know to have a felony record

6.0 - Not be self-employed without agent consent

6.1 - Not work as _____

6.3 - Must not work with direct control or access to money

07 - Must not own or possess a firearm

7.0 - No checking account, charge account or credit card

7.5 - State Costs

08 - Must not own, possess or use any object as a weapon

09 - Make earnest efforts to find and maintain employment

10 - Must comply w/special conditions, written and verbal orders

TOP

26044143697

DEPT. OF ATTORNEY GENERAL
CRIMINAL DIVISION

SEP 30 2003

STATE OF MICHIGAN
CIRCUIT COURT FOR THE 30TH JUDICIAL CIRCUIT
INGHAM COUNTY

ASSIGNED TO

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

No. 02-1185-FH-C30

v

HON. WILLIAM E. COLLETTE

JEROME DEWALD,

Defendant.

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
2005 MAY 17 P 14:31

ORDER

FOR SEIZURE AND FORFEITUREAt a session of said Court held in the City of Mason,
County of Ingham, State of Michigan on September 3, 2003.

HON. WILLIAM E. COLLETTE

This matter having come before the Court on September 3, 2003, for sentencing, and the Court being duly advised in the premises. Defendant Jerome Westfield Dewald was sentenced by this court as stated in its written sentencing order.

IT HAS BEEN ORDERED that Defendant Jerome Westfield Dewald as part of sentence in this matter has been ordered to pay restitution in the amount of \$708,187.50, and

IT HAS BEEN FURTHER ORDERED that funds held pursuant to search warrants issued in this case are to be paid as partial satisfaction of this restitution order,

NOW, THEREFORE, IT IS HEREBY ORDERED that all funds in any account meeting the following description (as stated on previously issued search warrants) are hereby forfeited and seized as proceeds of crime for use as partial satisfaction of this restitution order:

Old Kent Bank (now Fifth-Third Bank): Any and all bank accounts maintained by Friends for a Democratic White House, whose Treasurer's address is 2056 Thorburn St., Holt, MI 48842. This warrant includes, but is not limited to, money orders, checks, bank drafts, statements, records of all transactions and monies held therein.

COMERICA Bank: Any and all bank accounts maintained by PAC Services, Inc., 6020 N. Hagadorn, East Lansing, Michigan 48823 a/k/a PAC Services, Inc., 2970 Lake Lansing Rd., East Lansing, Michigan 48823. This warrant includes, but is not limited to, money orders, checks, bank drafts, statements, records of all transactions and monies held therein.

Citizen's Bank: Any and all bank accounts maintained by Swing States for a GOP White House a/k/a Swing States PAC, a/k/a Swing PAC, whose Treasurer's address is 130 W. Lansing Road, Morrice, MI 48857. This warrant includes, but is not limited to, money orders, checks, bank drafts, statements, records of all transactions and monies held therein.

Chemical Bank: Any and all bank accounts maintained by PAC Services, Inc., 6020 N. Hagadorn, East Lansing, Michigan 48823 a/k/a PAC Services, Inc., 2970 Lake Lansing Rd., East Lansing, Michigan 48823. This warrant includes, but is not limited to, money orders, checks, bank drafts, statements, records of all transactions and monies held therein.

BE IT FURTHER ORDERED that holders of these funds shall pay them over to the State of Michigan for handling consistent with Defendant's sentence and this order, and

BE IT FURTHER ORDERED that none of these funds are to be distributed as reimbursement or otherwise paid out until Defendant's appeal of his conviction and sentence has been decided and/or all appeal periods have expired.

WILLIAM E. COLLETTE

WILLIAM E. COLLETTE
Circuit Judge

Dated: 9.26.03

Approved, SCAO

STATE OF MICHIGAN
30TH JUDICIAL CIRCUIT
INGHAM COUNTY

JUDGMENT OF RE-SENTENCE
COMMITMENT TO
CORRECTIONS DEPARTMENT

CASE NO
02-1185-FH-C30

ORI: MI-330055J
Police Report No.

Court Address
315 S. Jefferson, Mason, MI 48854

Court Telephone No. (317) 483-6500

DEPT. OF ATTORNEY GENERAL
CRIMINAL DIVISION
THE PEOPLE OF THE STATE OF MICHIGAN

OCT 31 2003

ASSIGNED TO

Attorney General Case \ Bar no.
Thomas Boyd, Asst. Atty. General P 44720

Defendant name, address, and telephone no.
JEROME WESTFIELD DEWALD

CTN/TCN
96 02 000003 01

SID

DOB
01/17/1951

Defendant attorney name \ Bar no.
STUART R. SHAFER 25599

THE COURT FINDS:

1. The Defendant, represented by counsel, was found guilty on 6-27-03 of the crimes stated below:
*Please use "G" for guilty plea; "NC" for nolo contendere; "MI" for guilty but mentally ill. ** Use "X" if sentence is to be enhanced because of Habitual Offender Act.

Count	CONVICTED BY			CRIME	Code CHARGE CODE(S) MCL citation/PACC
	Plea	Court	Jury		
1			X	False Pretenses \$1000. or more but less than \$20,000.00	PACC 750.2184A
3 & 4			X	Fraud - Common Law	PACC 750.280
5 & 6			X	Larceny by Conversion \$20,000. or more	PACC 750.3622A

☐ 2. The conviction is reportable to the Secretary of State under MCL 257.625(20)(b).

The defendant's driver license number is: _____

☐ 3. HIV testing and sex offender registration is completed.

☐ 4. The defendant has been fingerprinted according to MCL 28.243.

IT IS ORDERED:

5. Defendant is sentenced to custody of Michigan Department of Corrections. This sentence shall be executed immediately.

Count	RE- SENTENCE DATE	MINIMUM			MAXIMUM		DATE RE- SENTENCE BEGINS	JAIL CREDIT		OTHER INFORMATION
		Years	Mos.	Days	Years	Mos.		Mos.	Days	
1	10-15-03		16			60	10-15-03		75	Total credit equals 75 days
3 & 4	10-15-03		23			120	10-15-03		75	Sentences to run concurrent
5 & 6	10-15-03		23			120	10-15-03		75	

☐ 6. Sentence(s) to be served consecutively to: (if this item is not checked, the sentence is concurrent)

☐ each other. ☐ case number(s) _____

7. Defendant shall pay: ☒ restitution of \$ \$708,137.50 LESS MONEY SEIZED OF \$172,558.99

☒ \$60.00 for Crime Victim Rights Fund.

☐ \$150 for forensic lab test. ☒ \$400.00 Costs.

☐ 8. The concealed weapons board shall ☐ suspend for _____ day ☐ permanently revoke the concealed weapons license, permit number _____, issued by _____ County.

9. Court Recommendation: (NOTE: as to Count 2 sentenced to 90 days Ingham County Jail to run concurrent with prison sentence).

October 15, 2003

Judge WILLIAM E COLLETTE Bar no. 12056

I certify that this is a correct and complete abstract from the original court records. The sheriff shall, without needless delay, deliver defendant to the Michigan Department of Corrections at a place designated by the department.

(SEAL)

Deputy court clerk, Laurie Seibum

MCL 765.15(2), mcl 769.10a; MSA 28.1046(3), MCL 775.22; MSA 28.1259, MCL 780.766; MSA 28.1287(7660 MCR 6.427(A)

CC 219b (3/02) JUDGMENT OF SENTENCE, COMMITMENT TO CORRECTIONS DEPARTMENT

ATTACHMENT C

Page 3 of 3

NO. 329 0002

INGHAM COUNTY 30TH CIRCUIT COURT + 91512724165688PP10

10/31/2003 15:45